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09/586,571	06/02/2000	Mark A. Webster	INSL:0012	6023

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EXAMINER

STEVENS, ROBERTA A

ART UNIT	PAPER NUMBER
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2665

12

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/586,571

Applicant(s)

WEBSTER ET AL.

Examiner

Roberta A Stevens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20-31, 34-43 and 46 is/are rejected.
- 7) ☒ Claim(s) 19, 32, 33, 44 and 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 20 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Preuss (U.S. 6590889 B1).

3. Regarding claim 1, Preuss teaches (figure 3 and column 6) a transmitter that uses a dual packet configuration for wireless communication, comprising: a first modulator that modulates a first portion of each packet (header) solely according to a serial modulation (BPSK); and a second modulator that modulates a second portion of each packet (payload) solely according to a parallel modulation (QAM).

4. Regarding claim 20, Preuss teaches (figure 3 and column 6) a wireless communication device that is configured to communicate using a dual packet configuration, comprising: a transmitter configured to transmit packets with a dual configuration; a receiver configured to receive packets with a dual configuration; and the dual packet configuration including first and second portions, the first portion (header) modulated solely according to a serial modulation (BPSK) method and the second portion (payload) modulated according to a parallel modulation method (QAM).

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5. Regarding claim 36, Preuss teaches (figure 3 and column 6) a method of wireless communication using a dual packet communication, comprising: modulating a first portion (header) of each packet solely according to a serial modulation (BPSK); and modulating a second portion (payload) of each packet according to a parallel modulation (QAM).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 2-18, 21-31, 34, 35, 37- 43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Preuss in view of Andren (U.S. 6678310).

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9. Regarding claims 2, 21 and 37, as mentioned above Preuss teaches all of the limitations of claim .

10. Preuss does not teach the serial modulation being DSSS and the parallel modulation being OFDM.

11. Andren teaches (column 8) a header being modulated using BPSK which offers the same result as DSSS and the variable data (payload) maybe modulated in different formats than the header portion which includes OFDM. It would have been obvious to one of ordinary skill in this art to adapt to Preuss' system Andren's use of BPSK, which offers the same results as DSSS and OFDM as these modulations are well known in the art.

12. Regarding claim 3, Andren (figure 1C) teaches the first portion including a preamble and a header.

13. Regarding claims 4 and 5, as for the preamble being long or short, it would have been obvious to one of ordinary skill in the art to adapt to Andren's system either long or short preambles as both are well known in the art.

14. Regarding claims 6, 22 and 38, Andren (column 8) the header indicating an OFDM mode bit (Andren teaches that the reference phase of the first symbol of the variable portion of the packet is the output phase of the last symbol of the header).

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15. Regarding claims 7, 23 and 38, Andren (figure 1C) the header including a length field indicating the duration of the second portion.

16. Regarding claim 8, Andren (column 8-9 and figure 1C and 1D) the second portion comprising an OFDM (high data rate modulation) synchronization pattern; an OFDM (high data rate modulation) signal symbol; and an OFDM (high data rate modulation) payload, the OFDM (high data rate modulation) signal symbol including a data rate section and a data count section.

17. Regarding claim 9, Andren (column 8-9 and figure 1C and 1D) the OFDM (high data rate modulation) signal symbol including a data rate section and a data count section.

18. Regarding claim 10, 24, 39 and 40, Andren (column 8-9 and figure 1C and 1D) the first portion based on a first clock fundamental; and the second portion based on a second clock fundamental.

19. Regarding claims 11, 12, 25 and 26, Andren (column 8-9 and figure 1C and 1D) the clock fundamental ranging from 13MHz to 22 MHz.

20. Regarding claims 13, 27 and 41, Andren (column 8-9 and figure 1C and 1D) the second portion including (OFDM (high data rate modulation) symbols wherein each OFDM (high data rate modulation) symbol includes a guard interval with a standard number of samples for OFDM (high data rate modulation).

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21. Regarding claims 14, 28 and 42, Andren (column 8-9 and figure 1C and 1D) ) the second portion including (OFDM (high data rate modulation) symbols wherein each OFDM (high data rate modulation) symbol includes a guard interval with a increases number of samples.

22. Regarding claims 15, 29 and 43, Andren (column 8-9 and figure 1C and 1D) ) the second portion including OFDM (high data rate modulation) symbols wherein each OFDM (high data rate modulation) symbol includes a reduced number of frequency subcarriers.

23. Regarding claim 16, Andren (column 8-9) each OFDM (high data rate modulation) symbol includes 48 frequency subcarriers.

24. Regarding claims 17 and 30, Andren (column 8-9) each of the frequency subcarriers is a data subcarrier.

25. Regarding claims 18 and 31, Andren (column 8-9) the frequency subcarriers include at least one pilot tone.

26. Regarding claims 34 and 46, as for a standard mode of communication, it would have been obvious to one of ordinary skill in the art to adapt to Preuss and Andren's

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system a standard mode of communication as modulating both header and payload in using serial modulation is well known in the art.

27. Regarding claim 35, Andren (column 9) the transmitter and receiver each are configured to operate in the 2.4 GHz frequency band.

#### *Allowable Subject Matter*

28. Claims 19, 32, 33, 44 and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

30. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the



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advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

31. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Roberta Stevens whose telephone number is (703) 308-6607. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:30 p.m.

32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor can be reached on (703) 308-6602.

33. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-3900.

34. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:** (703) 872-9306

For informal draft communications, please label "PROPOSED" or "DRAFT"

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. Sixth Floor (Receptionist).

Roberta A. Stevens

Patent Examiner

03-21-04



STEVEN H. D NGUYEN  
PRIMARY EXAMINER